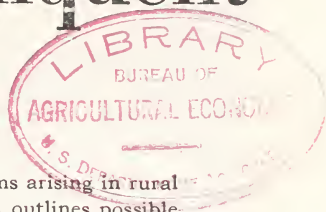


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# Rural Tax-Delinquent Lands



This leaflet discusses some of the major problems arising in rural areas in connection with tax-delinquent land, and outlines possible improvements in State laws which would aid in relieving the problems. For a more detailed discussion of these topics, readers are referred to the chapter on Rural Tax-Delinquent Lands in the Special Report issued by the United States Department of Agriculture, State Legislation for Better Land Use.

VAST ACREAGES of rural land in this country have had little or no taxes paid upon them for many years. This land is usually termed "chronically tax delinquent" when the taxes have been unpaid long enough to make the properties revert, or be eligible for reversion, to State or local governments. These properties present grave problems for many areas, because of the lack of public revenue from the land, and because the land itself often lies idle, being developed neither for immediate nor for future use.

The problem of chronic tax delinquency is now widespread. This is especially true in the Great Plains, the cut-over parts of the northern Lake States and the Ozarks, the areas adjacent to the lower Mississippi River, some of the southern coastal areas, and parts of the Middle Atlantic States and the Pacific Northwest. In these areas, because of poor soil, timber exploitation, drought hazards, drainage difficulties, or other reasons, it is hard for the people to obtain a satisfactory livelihood and to support needed governmental services.

In northern Minnesota, Wisconsin, and Michigan, about 20,000,000 acres of land either have been forfeited to the public for taxes, or are headed in that direction. In some counties, more than half the land is chronically tax delinquent. In two Ozark counties in northern Arkansas, it was

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recently estimated, about one-third of the land is tax delinquent. A like situation exists in the Ozark counties of Missouri.

Similarly, the "cut out and get out" policy of some lumber companies in parts of the Pacific Northwest promises to create future tax-delinquency problems. In many areas, the lumber industry has already declined, because of exhaustive logging. Where the timber has been stripped off, the logging companies have moved on, and left in their wake desolate land where fire hazards menace the new growth of trees and threaten the safety of the remaining communities.

### **Tax Delinquency in the Great Plains.**

Tax delinquency reaches dramatic proportions in the Great Plains, particularly in the northern Great Plains. Of the total taxable area of western South Dakota, for instance, almost two-fifths was tax delinquent in 1938; two-thirds of this amount has been tax delinquent for 4 years or more.

More than two-thirds of the taxable acreage of 14 counties in southwestern North Dakota was delinquent for 1 year's taxes or more in 1936; about 20 percent of this was delinquent for 5 years or more. In five counties there, the tax-delinquent land, together with the land that already had gone back to the counties because of unpaid taxes, made up more than three-fourths of the taxable area.

Of the almost 40,000,000 taxable acres of eastern Montana in 1936, 35 percent was delinquent for 1 or more years' taxes. Counties held tax deeds to more than 3,000,000 acres. In addition, the 30 eastern counties, if they obtained tax deeds to all land now subject to tax sales, could increase their holdings by 9,000,000 acres.

### **Action on Tax-Delinquent Land.**

When a property owner has had a reasonable opportunity to pay the taxes on his land and it becomes clear that he does not intend to pay, it may often be a mistake for the public to delay action ending his ownership. Such delay may be against the interests of the community and destructive to the land itself. The total cost of public services in an

area is determined largely by the number of people served and the kinds of services demanded. The local share of these costs must be borne by the owners who pay taxes. Tax delinquency by some of the owners, of course, puts a heavier burden upon the nondelinquent owners, either in higher payments or in increased public debts. Furthermore, landowners who know that they must eventually lose their land often try to get everything out of it they can, without concern for its future productivity.

The mere ending of the tax debtor's ownership, however, will accomplish little in itself. What to do with this land when it is acquired by the public is discussed in County Planning Leaflet No. 13, Management and Development of State and County Land. As the leaflet points out, efficient use of this type of public land must begin with one or two general lines of action: (1) some land can be returned to the tax rolls by sale to a new owner, and (2) the rest can be retained in public ownership, either because it cannot be sold, or because public management offers greater advantages to the community than would private management.

Before an effective State program to deal with this land can be undertaken, new legislation to revise tax-collection laws will be needed in many States. The tax laws of most States were prepared more than 50 years ago. The framers of these laws could not foresee the problems of chronic tax delinquency that were to arise in later years. These laws fail to meet present needs and in some cases block the way to types of action called for by present-day conditions.

### **Sound Public Titles Necessary.**

Any efficient program for gaining full public control of chronically delinquent land has to be based on cutting off the debtor's claims to it, so that the public can get a clear title (after the debtor has had reasonable opportunity to pay the taxes). Tax deeds obtained by the State or county are now considered sound in only a few States, and yet the basic step of clearing the public's title is seldom taken. When the public does not have sound title, later efforts to sell the



land to people who will pay the taxes are hindered. This is particularly true of land of small value, upon which a purchaser cannot afford to spend from \$75 to \$125 extra, which is often required to clear the title. Even in the case of better tracts, the prospective purchaser takes into account the costs of title clearance when he bids for the land. These costs thus reduce the price he is willing to pay.

Title uncertainties also hinder the public management of unsold land. For example, a county may wish to lease some of its tax-deeded land for such uses as grazing. But potential users may be unwilling to rent the land, fearing that the former owner may later invalidate the tax deed, and break the lease or demand excessive rent. Revisions in tax collection laws are being considered by a number of land use planning committees, as a desirable step toward clearing up public titles to delinquent land at reasonable cost.

Often it might be well for attention to be given to additional legal changes. Do present laws give a delinquent taxpayer enough time to pay? Do they give him too much? Are the penalties upon delinquent payments either so large or so small that they discourage payment? Are tax collection and sale procedures too complicated? Can they be simplified? Are they unnecessarily expensive? These and many other questions frequently arise when local and State groups examine the particular laws affecting their areas.

### **Law to Fit Needs of Many States.**

One type of law can be outlined which, in its general principles, would fit the needs of many States. All the legal provisions discussed in this outline are now being used, but in no single State are all of them in effect.

*Reasonable period for payment.*—Instead of holding a tax sale soon after real estate taxes become delinquent, and then allowing the tax debtor a redemption period in which to pay up, the law might permit action on tax-delinquent land to be postponed for a definite period, until it is clear that a tax sale or suit is necessary. In effect, this would place the redemption period before, instead of after, the sale or suit. The period of postponement might cover the same number of

years as the redemption period did previously. To encourage prompt payment of taxes, penalties could be levied on taxes paid after the delinquency date. California, Idaho, Oregon, and Utah now provide for a period similar to that suggested.

*Judicial action.*—After allowing reasonable time for the payment of back taxes, the law might permit the governmental unit concerned to start suit to establish sound title to the land in question. To reduce legal costs, the law might allow all tracts of tax-delinquent land to be included in a single suit. Legal provision could also be made so that all persons having an interest in the land might be notified through the newspapers, instead of by hiring someone (usually the sheriff and his deputies) to deliver notices personally. The need for searching the county records to find out who should be notified could also be eliminated by use of published notices.

Any owner wishing to contest the action on his property could be allowed to appear in court and be heard separately from other defendants. After hearing defenses, provision could be made allowing the court to order the land dismissed from the suit, or to order it sold to the governmental unit if the evidence warranted. The decree of the court could operate as a deed, and vest a title in the public so that no tax deed would be needed. It would then be unnecessary to allow the owner a redemption period, provided a similar period had been allowed for payment of the delinquent taxes before judicial action was started.

Laws providing for tax-collection suits of this kind, in which the interested persons are given only a published notice of the action, have been held constitutional by the United States Supreme Court and by State Supreme Courts. Such laws are found already in several States, including Michigan, New York, North Dakota, and Oregon. In Michigan, an action of this kind has been in use ever since 1893.

*Attacks on public titles by lawsuits might be permitted only during a definite period following the court decree.*—Even if the procedure outlined is followed, circumstances will arise occasionally, under which the title

acquired by the public will be questioned. To settle these as quickly and cheaply as possible, any person claiming an interest in the land might be required to start suit within a definite period, such as a year after the court decree is filed—or be denied the right to sue thereafter. Laws of this kind, in some form, are already in effect in nearly all States.

### **Property Tax Administration.**

Of course, not all the difficulties encountered in attempts to obtain valid tax deeds are caused by inadequate laws. Serious difficulties invalidating tax deeds are often caused by defective administrative systems. The administration of the taxing process is frequently vested in local jurisdictions that are too small to support an effective organization; and sometimes the fault is aggravated by the piling up of several local tax systems, without coordination, on the same small area. Antiquated forms and records, or lack of current records, may lead to errors that hinder the tax-collection work. It is often true that local officials concerned with the assessment and collection process do not realize that each step in the entire taxation process contributes to the whole, and that seemingly minor procedural defects may cloud the public's title to the land. It is sometimes recommended, therefore, that property-tax administration be gathered into single units large enough to support full-time and qualified tax officers; that officials be chosen solely with a view to their qualifications for the work; and that a competently staffed State agency should provide either active assistance or supervision for local tax administration.

#### **Previous Publications in this Series:**

- No. 1.—County Land Use Planning.
- No. 2.—Membership of Land Use Planning Committees.
- No. 3.—The Land Use Planning Organization.
- No. 4.—The Scope of Land Use Planning.
- No. 5.—Pooling Ideas in Land Use Planning.
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- No. 7.—Rural Zoning and Land Use Planning.
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